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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,558	02/19/2004	Willis J. Mullet	WAY.P.US0075	6336

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EXAMINER

BROWN, VERNAL U

ART UNIT PAPER NUMBER

2635

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/782,558		MULLET ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Vernal U. Brown		2635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The application of Willis mullet for Operating System for a motorized barrier operator with a radio frequency energized light kit and/or switch and method for programming the same filed 2/19/04 has been examined. Claims 1-49 are pending.

#### ***Claim Objections***

Claims 1-49 are objected to because of the following informalities: Claims 1 and 25 uses the term "capable of". It has been held that the recitation that an element is capable of performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchinson, 69 USPQ 138. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 recites the limitation "said group of transmitters. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 14-23, 25-26-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dykema et al. US Patent 5661804 in view of Burgess US Patent 6617975.

Regarding claims 1,3, 14-15, 25-26, Dykema et al. teaches an operator system for a motorized barrier, comprising: an operator (43) which controls the motorized barrier and the operator is capable of receiving wireless signals to control the motorized barrier (col. 6 lines 55-66); a device (66) which controls an electrical load, the device is capable of receiving wireless signals to control said load (col.6 lines 53-60). Dykema et al. is however silent on teaching the transmitter generating wireless signals for independent operation of the operator and the device. Burgess in an art related remote operated access system teaches a system for a motorized barrier (col. 3 lines 14-16) teaches an operator 114 receiving a wireless signal 132 and a device 110 receiving wireless signal 109 via its receiver 104 to control a load (col.4 lines 22-26). The wireless signal received by the operator and are independently received from the transmitter 108 as shown in figure 2 because there is an independent transmission path from the transmitter to the operator and the device. The operator and the both receive the same frequency because transmission to the device and the operator is a result of pressing a button on the remote transmitter for transmitting a code (col. 7 lines 30-37) in order to facilitate the code learning process.

It would have been obvious to one of ordinary skill in the art for the transmitter to generate wireless signals for independent operation of the operator and the device as suggested by Burgess in order to provide a means for the device and operator to learn the control codes.

Art Unit: 2635

Regarding claims 2 and 7, Dykema et al. teaches a remote transmitter 65.

Regarding claims 4 and 27-28, Dykema et al. teaches the fixture control a light (col. 6 lines 44-48).

Regarding claim 5, Dykema et al. teaches a transceiver 58 for receiving wireless signal (figure 5) and a controller 57 connected to the transceiver and validate the wireless signal (col. 14 line 62-col. 15 line 10).

Regarding claims 6, 16, and 19, Dykema et al. teaches a program button operative with said controller; a memory device associated with said controller, and wherein actuation of said program button places said controller in a learn mode such that any valid signal received while in said learn mode is stored in said memory device (col. 6 lines 3-27). Dykema et al. teaches the system is used to control a light (col. 6 lines 44-48). The controlling of a light inherently includes an on/off switch. Dykema et al. teaches an indicator in the form of LED associated with the controller for indicating various conditions such as on/off (col. 7 lines 25-37).

Regarding claim 20, Dykema et al. teaches the learning of a valid transmitter wireless signal and a valid operator wireless signal by said controller initiates illumination of one of said indicators in a predetermined manner (col. 7 lines 23-25).

Regarding claims 21-23, Dykema et al. teaches the receipt of a valid signal enable the operation of the load (col. 6 lines 44-55). Dykema et al. also teaches an indicator in the form of LED associated with the controller for indicating various operating conditions (col. 7 lines 25-

Art Unit: 2635

Regarding claims 17-18, Dykema et al. teaches a transmitter 65 for operating the garage door and the transmitter is identified by its identification code (col. 6 lines 48-51) and is therefore distinguishable from other transmitters.

Regarding claims 29-31, Dykema et al. teaches the transceiver of the garage door opener is trained to match the frequency of the transmitter (col. 2 lines 12-14) and one skilled in the art recognizes that each transmitter operate at a particular frequency within the frequency range allotted for such devices.

It would have been obvious to one of ordinary skill in the art for the transmitter and the operator to generate signal at different frequencies because one skilled in the art recognizes that each transmitter operates at a particular frequency within the frequency range allotted for such devices and the frequency of operation is also based on the design requirements.

Claims 8 and 32-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dykema et al. US Patent 5661804 in view of Burgess US Patent 6617975 and further in view of Tsui US Patent Application Publication 20040008798.

Regarding claims 8 and 32-36, Dykema et al. teaches remote transmitter has plurality of function buttons, for controlling various devices including lighting and garage door (col. 6 lines 44-48, col. 6 lines 44-50) but is silent on teaching actuation of a first button of said remote transmitter in said learn mode designates the first button as a barrier command, and wherein actuation of any other button of said remote transmitter while in the learn mode designates said other button as a work light command. Tsui in an art related remote transmitter invention teaches

Art Unit: 2635

programming the keys of a remote transmitter to activate device based on user preferences (paragraph 0018).

It would have been obvious to one of ordinary skill in the art for the actuation of a first button of the remote transmitter in the learn mode designates the first button as a barrier command, and wherein actuation of any other button of said remote transmitter while in the learn mode designates said other button as a work light command in Dykema et al. in view of Burgess as evidenced by Tsui because Dykema et al. in view of Burgess suggests remote transmitter has plurality of function buttons, for controlling various devices and programming the keys of a remote transmitter to activate particular devices allows the user to programmed the transmitter keys according to his/her preferences.

Regarding claim 37, Dykema et al. teaches a memory associated with the controller for storing a valid signal during the learn mode (col. 5 lines 2-11).

Regarding claim 38, Dykema et al. teaches the fixture control a light (col. 6 lines 44-48).

Regarding claims 39-43, Dykema et al. teaches a transmitter 65 for operating the garage door when the wireless signal transmitted from the transmitter is validated(col. 6 lines 48-51). The transmitter is identified by its identification code (col. 6 lines 48-51) and is therefore distinguishable from other transmitters.

Regarding claim 44, Dykema et al. teaches the system is used to control a light (col. 6 lines 44-48). The controlling of a light inherently includes an on/off switch. Dykema et al. teaches an indicator in the for of LED associated with the controller for indicating various conditions such as on/off (col. 7 lines 25-37).

Regarding claim 45, Dykema et al. teaches a program button operative with said controller; a memory device associated with said controller, and wherein actuation of said program button places said controller in a learn mode such that any valid signal received while in said learn mode is stored in said memory device (col. 6 lines 3-27).

Regarding claims 46-48, Dykema et al. teaches the receipt of a valid signal enable the operation of the load (col. 6 lines 44-55). Dykema et al. also teaches an indicator in the form of LED associated with the controller for indicating various operating conditions (col. 7 lines 25-37).

Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dykema et al. US Patent 5661804 in view of Burgess US Patent 6617975 in view of Tsui US Patent Application Publication 20040008798 and further in view of Sunan et al. US Patent 5903226

Regarding claims 9-13, Dykema et al. teaches the remote transmitter is used to control lighting (col. 6 lines 44-48) but is silent on teaching illuminating the light for only a predetermined time. Sunnan et al. teaches illuminating a light for a predetermine period of time when the garage door is open or closed (col. 5 lines 52-60) in order to provide lighting for the user and to ensure that the light is only turned on when it is needed. Sunan et al. further teaches the transmitter include up/down button (16), delay close button (col. 5 line 60), pet height button (col. 8 lines -33) and a door profile button (col. 7 lines 46-56) in order to provide for the convenient and safe operation of the barrier.



Art Unit: 2635

It would have been obvious to one of ordinary skill in the art to illuminate the light for only a predetermined time in Dykema et al. in view of Burgess in view of Tsui as evidenced by Lai because Dykema et al. in view of Burgess in view of Sunnan et al. suggests control a light using a remote control and illuminating the light for a period of time ensure that the light is only turned on when it is needed and the use of up/down button, delay close button, pet height button and a door profile button provides for the convenient and safe operation of the barrier.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dykema et al. US Patent 5661804 in view of Burgess US Patent 6617975 and further in view of Huang et al. US Patent 6334636.

Regarding claim 24, Dykema et al. teaches transmitting a control signal to operate the barrier (col. 6 lines 55-66) but is silent on teaching actuation of the on button turns the load on and precludes said controller from receiving any wireless signals, and wherein actuation of the off button turns the load off and allows the controller to receive any valid wireless signals. Huang et al. in an art related remote locking device teaches a control signal to ignore the locking or unlocking from a remote controller (col. 4 lines 24-29) in order to allow manual operation of the locking mechanism and prevent the use of the remote control while the barrier is manually activated.

It would have been obvious to one of ordinary skill in the art for the actuation of the on button turns the load on and precludes said controller from receiving any wireless signals, and wherein actuation of the off button turns the load off and allows the controller to receive any valid wireless signals in Dykema et al. in view of Burgess as evidenced by Huang et al. because

Art Unit: 2635

disabling the wireless receiver when the load is on enables the manual operation of the locking mechanism and prevent the use of the remote control while the barrier is manually activated.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dykema et al. US Patent 5661804 in view of Burgess US Patent 6617975 in view of Tsui US Patent Application Publication 20040008798 and further in view of Huang et al. US Patent 6334636.

Regarding claim 49, Dykema et al. teaches transmitting a control signal to operate the barrier (col. 6 lines 55-66) but is silent on teaching actuation of the on button turns the load on and precludes said controller from receiving any wireless signals, and wherein actuation of the off button turns the load off and allows the controller to receive any valid wireless signals. Huang et al. in an art related remote locking device teaches a control signal to ignore the locking or unlocking from a remote controller (col. 4 lines 24-29) in order to allow manual operation of the locking mechanism and prevent the use of the remote control while the barrier is manually activated.

It would have been obvious to one of ordinary skill in the art for the actuation of the on button turns the load on and precludes said controller from receiving any wireless signals, and wherein actuation of the off button turns the load off and allows the controller to receive any valid wireless signals in Dykema et al. in view of Burgess in view of Tsui as evidenced by Huang et al. because disabling the wireless receiver when the load is on enables the manual operation of the locking mechanism and prevent the use of the remote control while the barrier is manually activated.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U. Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vernal Brown  
December 7, 2005



BRIAN ZIMMERMAN  
PRIMARY EXAMINER